

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

EUGENE ORANGE,

Petitioner,

v.

A. HEDGEPEETH, Warden,

Respondent.

Civil No. 07cv2066 JLS (WMc)

**ORDER:**

**(1) DISMISSING FIRST AMENDED  
PETITION AS DUPLICATIVE  
[Doc. No. 4];**

**(2) DISMISSING APPLICATION TO  
PROCEED IN FORMA  
PAUPERIS AS MOOT [Doc. No. 5.] ;  
and**

**(3) DISMISSING MOTION FOR STAY  
AS MOOT [Doc. No. 6]**

On October 22, 2007, Petitioner, a state prisoner proceeding pro se, submitted a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254. [Doc. No. 1.] On November 15, 2007, this Court dismissed Petitioner's case for failure to pay the filing fee or move to proceed in forma pauperis, and name a proper respondent. [Doc. No. 3.] On December 12, 2007, Petitioner filed a First Amended Petition, together with a Request to Proceed In Forma Pauperis, and a Motion for Stay and Abeyance.

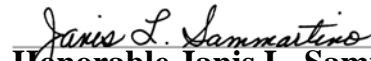
Upon further review, it appears that Petitioner has filed two identical petitions with this Court. On April 23, 2007, a petition identical to the present First Amended Petition was filed in case number 07cv0749. The Court may dismiss a duplicative petition as frivolous if it "merely repeats pending or previously litigated claims." Cato v. United States, 70 F.3d 1103,

1 1105 n.2 (9th Cir. 1995) (citations omitted). In addition, Petitioner filed identical Requests to  
2 Proceed In Forma Pauperis in both cases, as well as a Motion for Stay and Abeyance in each  
3 case based on the same grounds.

4 In light of the above, the Court **DISMISSES** this case because the First Amended Petition  
5 in this case is duplicative of the original petition filed in case number 07cv0749. The Court  
6 further **DISMISSES** as **MOOT** Petitioner's Request to Proceed In Forma Pauperis and Motion  
7 for Stay and Abeyance in the present action. The Clerk shall close the file.

8 **IT IS SO ORDERED.**

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10 DATED: January 8, 2008

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12 **Honorable Janis L. Sammartino**  
13 **United States District Judge**  
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